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From:

Sent: Thursday, August 13, 2009 8:39:25 AM

To:

Cc:

Subject: RE: Schedule K-1 Information Return for Partner which is a Corporation / Dividend Received Deduction (DRD) Reporting on TEFRA 1065 and Corporate Partner's K-1

I agree that we can make your argument as an alternative to the arguments I set forth in prior e-mails. Section 702(a)(5), in conjunction with section 703, requires that the partnership separately state the portion of line 6b that comes from affiliated domestic corporations. The failure to do so presumably means that there are no such items and, thus, would serve as grounds for asserting an inconsistent partner filing under section 6222, allowing us to assess the inconsistently reported items without conducting a TEFRA partnership proceeding. Deficiency procedures under section 6230(a)(2)(A) would apply to this affected item assessment to the extent the disallowance is not purely computational. So you likely can address the issue in your current deficiency proceeding.

From:

Sent: Wednesday, August 12, 2009 4:42 PM

To:

Cc:

Subject: RE: Schedule K-1 Information Return for Partner which is a Corporation / Dividend Received Deduction (DRD) Reporting on TEFRA 1065 and Corporate Partner's K-1

1. That's a great point about the "(or may be) inconsistent" language in Section 6222(b)(1)(A)(i)!

Thus, in case where the partnership left Line 6b blank, the Service can adjust the corporate partner's return without a partnership proceeding as long as we ultimately use the Section 243(a) dividend information which appears in the supplemental information elsewhere on the partner's F1065 Schedule K-1 or, as seems most often the case, the Section 243(a) dividend information subsequently supplied by the partnership itself. Your position also seems consistent with Reg. 301.6222(a)-1(a):

The treatment of a partnership item on the partner's return must be consistent with the treatment of that item by the partnership on the partnership return in all respects [emphasis added] including the amount, timing, and characterization of the item."